THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No. 30376 OF 1997

DATE: 17-4-2007

Between:

Areti Nageswara Rao ... Petitioner

And

1. A.P.S.E.B. rep. by its Secretary, Vidyut Soudha, Hyderabad and 5 others .. Respondents

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WRIT PETITION No. 30376 OF 1997

ORDER:

The petitioner, appointed as L.D.C on 8.2.1980 is admittedly senior to respondents 3 to 6 and was so shown in the seniority list published in October, 1997. His grievance in this writ petition is that while his juniors were promoted as Upper Division Clerks (UDCs), his case was not considered for promotion resulting in his being placed below his juniors. The qualifications prescribed for promotion to the post of U.D.C are (1)Pass in Accounts Test for Subordinate Officers- Part-I (2) Pass in local fund audit test conducted by A.P.P.S.C. and (3) Approved probationer in the Cadre of L.D.C/Typist/Revenue Cashier.

During February, 1997, four vacancies arose in the post of L.D.Cs. and respondents 3 to 6 were given orders of promotion dated 1.3.1997. However their promotions were kept in abeyance, by order dated 6.3.1997, in view of the orders passed in W.P.16362 of 1990 and batch dated 31.7.1996 requiring seniority of LDCs to be recast. After the seniority list was recast, while the petitioner remained at Sl.No.150, the un-official respondents were shown at Sl.Nos.235 to 238. By the time the seniority list was recast, and the unofficial respondents were promoted on 15.11.1997, the petitioner had also acquired the qualification of having passed the Accounts Test for Subordinate Officers Part-I in the examination held on 13.7.1997 the results of which were declared on 13.10.1997. The petitioner, thus, possessed all the necessary qualifications prescribed for being considered for promotion to the post of UDC on 13.10.1997.

Dr.P.B.Vijaya Kumar, learned counsel for the petitioner, would contend that since the earlier promotion orders of

respondents 3 to 6 dated 1.3.1997 were kept in abeyance and they were in fact promoted only on 15.11.1997, and even prior thereto the petitioner had passed the Accounts Test for Subordinate Officers Part-I on 13.10.1997 itself he, being senior to respondents 3 to 6, should have been promoted as UDC in preference to respondents 3 to 6 and that the action of the respondents in promoting respondents 3 to 6 as UDCs on 15.11.1997 was arbitrary and illegal.

In the counter affidavit filed on behalf of the respondents it is specifically stated that the D.P.C. met in February 1997 to consider the case of eligible candidates for promotion as UDCs, and since the petitioner had not acquired the qualification of having passed the Accounts Test for Subordinate Officers Part-I during the said period and as respondents 3 to 6 possessed all the requisite qualifications,

they were considered for promotion for the post of UDC and not the petitioner herein.

It is not in dispute that in February, 1997 when the DPC met, to consider the case of eligible candidates for promotion as UDC, the petitioner was not eligible to be considered for promotion. The fortuitous circumstance of the promotion orders given to respondents 3 to 6 dated 1.3.1997 being kept in abeyance and promotions actually effected on 15.11.1997 would not enure to the petitioner's benefit since, admittedly, when the DPC met in February, 1997, the petitioner did not possess the requisite qualification and was therefore not entitled to be

considered for promotion as UDC. The action of the respondents in promoting respondents 3 to 6 as UDCs in February 1997, though they were juniors to the petitioner, cannot be faulted since they possessed all the prescribed qualifications in February 1997 when their cases were considered and the petitioner did not.

The writ petition fails and is accordingly dismissed. No order as to costs.

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17-4-2007
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